

## **EXHIBIT 1**

### **INTRODUCTION**

Respondent The Merit Shop Roundtable is a membership organization of non-union contractors, employees and trade associations. During the quarterly period July 1, 2001 through September 30, 2001, Respondent spent \$5,000 or more for the purpose of influencing legislative activity.

In this matter, Respondent violated the Political Reform Act (the “Act”)<sup>1</sup> by failing to file a lobbying report for the quarterly period in which Respondent spent \$5,000 or more for the purpose of influencing legislative activity. For the purposes of this Stipulation, Respondent’s violation is stated as follows:

Respondent, The Merit Shop Roundtable, as a person that spent \$5,000 or more for the purpose of influencing legislative activity, failed to file a lobbying report (Form 645) for the quarterly period ending September 30, 2001, by the October 31, 2001 due date, in violation of Section 86116.

### **SUMMARY OF THE LAW**

An express purpose of the Act, as set forth in Section 81002, is that “the activities of lobbyists should be regulated and their finances disclosed in order that improper influences will not be directed at public officials.” In furtherance of this purpose, the Act requires individuals and entities that make or receive payments for the purpose of influencing the decisions of the State Legislature and state administrative agencies to register and report their activities under the lobbying provisions contained in Sections 86100 through 86300.

### **Lobbying Definitions**

Section 82039 defines a “lobbyist” as an individual who receives \$2,000 or more in economic consideration in a calendar month, other than reimbursement for reasonable travel expenses, or whose principal duties as an employee are to communicate directly or through his or her agents with any elective state official, agency official, or legislative official, for the purpose of influencing legislative or administrative action.

Section 82038.5, subdivision (a)(1) defines a “lobbying firm” as a business entity that receives or becomes entitled to receive any compensation for the purpose of influencing legislative or administrative action on behalf of any other person, and any partner, owner, officer, or employee of the business entity.

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<sup>1</sup> The Political Reform Act is contained in Government Code sections 81000 through 91014. All statutory references are to the Government Code unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in sections 18109 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

Section 82039.5 defines a “lobbyist employer” as a person who, for economic consideration, employs one or more lobbyists, or contracts for the service of a lobbying firm, for the purpose of influencing legislative or administrative action.

### **Duty to Register and File Periodic Reports**

Section 86100 requires lobbying firms and lobbyist employers to register with the Secretary of State. Section 86100 also requires individual lobbyists to prepare lobbyist certifications as part of the registration of the lobbying firm in which the lobbyist is a partner, owner, officer, or employee; or as part of the registration of the lobbyist employer by which the lobbyist is employed.

Section 86113 requires a lobbyist to complete and verify quarterly lobbyist reports (Form 615), disclosing all activity expenses of the lobbyist during the quarter, and disclosing all contributions of one hundred dollars or more made or delivered by the lobbyist to any elected state officer or state candidate during the quarter.

Sections 86114 and 86117 require a lobbying firm to file quarterly lobbying firm reports (Form 625), disclosing the lobbying activities of the firm. A lobbying firm must attach to its quarterly report a lobbyist report for each partner, owner, officer, or employee of the lobbying firm who qualifies as a lobbyist. (Section 86114, subd. (a)(4).)

Section 86115, subdivision (a) and Section 86117 require a lobbyist employer to file quarterly lobbyist employer reports (Form 635), disclosing the lobbying activities of the employer. A lobbyist employer must attach to its quarterly report a lobbyist report for each lobbyist employed by the lobbyist employer. (Section 86116, subd. (e).)

### **\$5,000 Filers**

A “\$5,000 filer” is an individual or entity that does not make payments to a lobbyist or a lobbying firm, but still spends \$5,000 or more in a calendar quarter to influence legislative or administrative action. (Section 86115, subd. (b).) Persons who qualify as \$5,000 filers are not required by Section 86100 to register with the Secretary of State. However, Section 86115, subdivision (b) and Section 86117 require \$5,000 filers to file a quarterly lobbying report (Form 645) for each calendar quarter in which the filer spends \$5,000 or more to influence legislative or administrative activity, disclosing their lobbying activity.

### **SUMMARY OF THE FACTS**

Respondent The Merit Shop Roundtable is an association of non-union contractors, employees and trade associations. During the quarterly period July 1, 2001 through September 30, 2001, Respondent spent \$5,000 or more for the purpose of opposing Assembly Bill 1131.<sup>2</sup>

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<sup>2</sup> Assembly Bill 1131 was signed into law by the Governor on March 11, 2002.

Assembly Bill 1131 proposed additional restrictions on the state funding of non-union apprenticeship programs. Respondent's activities were as follows:

- On July 1, 2001, Respondent sent letters to Senator Richard Alarcon, Governor Gray Davis, and members of the Senate Committee of Labor and Industrial Relations, urging the defeat of Assembly Bill 1131.
- On July 1, 2001, Respondent paid \$1,000 to Adams and Company, an Oregon based political consulting firm, for the design of a print advertisement, urging the defeat of Assembly Bill 1131.
- On July 9, 2001, Respondent paid \$9,078 to the Sacramento Bee, and \$5,410 to the Fresno Bee, to publish the above-mentioned advertisement, urging the defeat of Assembly Bill 1131.
- On July 9, 2001, Respondent paid \$11,300 for radio advertisements on KFBK (1530 AM) and KSTE (650 AM) in Sacramento, urging the defeat of Assembly Bill 1131.
- On July 10, 2001, Respondent issued a press release announcing a rally in opposition to Assembly Bill 1131, scheduled to occur on the steps of the State Capitol.

After spending \$5,000 or more to influence legislative activity on Assembly Bill 1131, Respondent had a duty to file a quarterly lobbying report, by October 31, 2001, disclosing its lobbying activity. Respondent did not file the report by the due date. By failing to file a quarterly lobbying report by October 31, 2001, Respondent violated Section 86116. As part of reaching this stipulated settlement, Respondent has now filed the overdue report.

### **CONCLUSION**

In this matter, Respondent committed a violation of Section 86116. As this violation occurred in the calendar year 2001, the violation carries a maximum possible administrative penalty of \$5,000.<sup>3</sup> Prior to calendar year 2001, the typical stipulated penalty for failing to file a lobbying report ranged from \$1,000 to \$1,500, depending upon the seriousness of the violation. As Respondent's conduct in this case is an isolated event affecting a single piece of legislation and Respondent hadn't previously been required to file a lobbying report, a penalty in the middle of that range is appropriate.

Accordingly, the facts of this case justify imposition of an administrative penalty in the amount of One Thousand Two Hundred Dollars (\$1,200.00).

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<sup>3</sup> On January 1, 2001, the maximum administrative penalty amount increased from Two Thousand Dollars (\$2,000) to Five Thousand Dollars (\$5,000).